

taxpayer had previously taken a position on a return inconsistent with their treatment as start-up expenditures. The revised statement may be filed with a return filed after the return that contained the election.

(d) *Effective date.* This section applies to elections filed on or after December 17, 1998.

[T.D. 8797, 63 FR 69555, Dec. 17, 1998]

§ 1.197-0 Table of contents.

This section lists the headings that appear in § 1.197-2.

§ 1.197-2 Amortization of Goodwill and Certain Other Intangibles

- (a) Overview.
 - (1) In general.
 - (2) Section 167(f) property.
 - (3) Amounts otherwise deductible.
- (b) Section 197 intangibles; in general.
 - (1) Goodwill.
 - (2) Going concern value.
 - (3) Workforce in place.
 - (4) Information base.
 - (5) Know-how, etc.
 - (6) Customer-based intangibles.
 - (7) Supplier-based intangibles.
 - (8) Licenses, permits, and other rights granted by governmental units.
 - (9) Covenants not to compete and other similar arrangements.
 - (10) Franchises, trademarks, and trade names.
 - (11) Contracts for the use of, and term interests in, other section 197 intangibles.
 - (12) Other similar items.
- (c) Section 197 intangibles; exceptions.
 - (1) Interests in a corporation, partnership, trust, or estate.
 - (2) Interests under certain financial contracts.
 - (3) Interests in land.
 - (4) Certain computer software.
 - (i) Publicly available.
 - (ii) Not acquired as part of trade or business.
 - (iii) Other exceptions.
 - (iv) Computer software defined.
 - (5) Certain interests in films, sound recordings, video tapes, books, or other similar property.
 - (6) Certain rights to receive tangible property or services.
 - (7) Certain interests in patents or copyrights.
 - (8) Interests under leases of tangible property.
 - (i) Interest as a lessor.
 - (ii) Interest as a lessee.
 - (9) Interests under indebtedness.
 - (i) In general.
 - (ii) Exceptions.

- (10) Professional sports franchises.
- (11) Mortgage servicing rights.
- (12) Certain transaction costs.
- (13) Rights of fixed duration or amount.
- (d) Amortizable section 197 intangibles.
 - (1) Definition.
 - (2) Exception for self-created intangibles.
 - (i) In general.
 - (ii) Created by the taxpayer.
 - (A) Defined.
 - (B) Contracts for the use of intangibles.
 - (C) Improvements and modifications.
 - (iii) Exceptions.
 - (3) Exception for property subject to anti-churning rules.
 - (e) Purchase of a trade or business.
 - (1) Goodwill or going concern value.
 - (2) Franchise, trademark, or trade name.
 - (i) In general.
 - (ii) Exceptions.
 - (3) Acquisitions to be included.
 - (4) Substantial portion.
 - (5) Deemed asset purchases under section 338.
 - (6) Mortgage servicing rights.
 - (7) Computer software acquired for internal use.
 - (f) Computation of amortization deduction.
 - (1) In general.
 - (2) Treatment of contingent amounts.
 - (i) Amounts added to basis during 15-year period.
 - (ii) Amounts becoming fixed after expiration of 15-year period.
 - (iii) Rules for including amounts in basis.
 - (3) Basis determinations for certain assets.
 - (i) Covenants not to compete.
 - (ii) Contracts for the use of section 197 intangibles; acquired as part of a trade or business.
 - (A) In general.
 - (B) Know-how and certain information base.
 - (iii) Contracts for the use of section 197 intangibles; not acquired as part of a trade or business.
 - (iv) Applicable rules.
 - (A) Franchises, trademarks, and trade names.
 - (B) Certain amounts treated as payable under a debt instrument.
 - (1) In general.
 - (2) Rights granted by governmental units.
 - (3) Treatment of other parties to transaction.
 - (4) Basis determinations in certain transactions.
 - (i) Certain renewal transactions.
 - (ii) Transactions subject to section 338 or 1060.
 - (iii) Certain reinsurance transactions.
 - (g) Special rules.
 - (1) Treatment of certain dispositions.
 - (i) Loss disallowance rules.
 - (A) In general.
 - (B) Abandonment or worthlessness.
 - (C) Certain nonrecognition transfers.

- (ii) Separately acquired property.
- (iii) Disposition of a covenant not to compete.
- (iv) Taxpayers under common control.
 - (A) In general.
 - (B) Treatment of disallowed loss.
- (2) Treatment of certain nonrecognition and exchange transactions.
 - (i) Relationship to anti-churning rules.
 - (ii) Treatment of nonrecognition and exchange transactions generally.
 - (A) Transfer disregarded.
 - (B) Application of general rule.
 - (C) Transactions covered.
 - (iii) Certain exchanged-basis property.
 - (iv) Transfers under section 708(b)(1).
 - (A) In general.
 - (B) Termination by sale or exchange of interest.
 - (C) Other terminations.
 - (3) Increase in the basis of partnership property under section 732(b), 734(b), 743(b), or 732(d).
 - (4) Section 704(c) allocations.
 - (i) Allocations where the intangible is amortizable by the contributor.
 - (ii) Allocations where the intangible is not amortizable by the contributor.
 - (5) Treatment of certain reinsurance transactions.
 - (i) In general.
 - (ii) Determination of adjusted basis.
 - (A) Acquisitions (other than under section 338) of specified insurance contracts.
 - (B) Insolvent ceding company
 - (C) Other acquisitions. [Reserved]
 - (6) Amounts paid or incurred for a franchise, trademark, or trade name.
 - (7) Amounts properly taken into account in determining the cost of property that is not a section 197 intangible.
 - (8) Treatment of amortizable section 197 intangibles as depreciable property.
 - (h) Anti-churning rules.
 - (i) Scope and purpose.
 - (i) Scope.
 - (ii) Purpose.
 - (2) Treatment of section 197(f)(9) intangibles.
 - (3) Amounts deductible under section 1253(d) or § 1.162-11.
 - (4) Transition period.
 - (5) Exceptions.
 - (6) Related person.
 - (i) In general.
 - (ii) Time for testing relationships.
 - (iii) Certain relationships disregarded.
 - (iv) De minimis rule.
 - (A) In general.
 - (B) Determination of beneficial ownership interest.
 - (7) Special rules for entities that owned or used property at any time during the transition period and that are no longer in existence.
 - (8) Special rules for section 338 deemed acquisitions.

- (9) Gain-recognition exception.
 - (i) Applicability.
 - (ii) Effect of exception.
 - (iii) Time and manner of election.
 - (iv) Special rules for certain entities.
 - (v) Effect of nonconforming elections.
 - (vi) Notification requirements.
 - (vii) Revocation.
 - (viii) Election Statement.
 - (ix) Determination of highest marginal rate of tax and amount of other Federal income tax on gain.
 - (A) Marginal rate.
 - (f) Noncorporate taxpayers.
 - (2) Corporations and tax-exempt entities.
 - (B) Other Federal income tax on gain.
 - (x) Coordination with other provisions.
 - (A) In general.
 - (B) Section 1374.
 - (C) Procedural and administrative provisions.
 - (D) Installment method.
 - (xi) Special rules for persons not otherwise subject to Federal income tax.
 - (10) Transactions subject to both anti-churning and nonrecognition rules.
 - (11) Avoidance purpose.
 - (12) Additional partnership anti-churning rules
 - (i) In general.
 - (ii) Section 732(b) adjustments. [Reserved]
 - (iii) Section 732(d) adjustments.
 - (iv) Section 734(b) adjustments. [Reserved]
 - (v) Section 743(b) adjustments.
 - (vi) Partner is or becomes a user of partnership intangible.
 - (A) General rule.
 - (B) Anti-churning partner.
 - (C) Effect of retroactive elections.
 - (vii) Section 704(c) elections.
 - (A) Allocations where the intangible is amortizable by the contributor.
 - (B) Allocations where the intangible is not amortizable by the contributor.
 - (viii) Operating rule for transfers upon death.
 - (i) Reserved
 - (j) General anti-abuse rule.
 - (k) Examples.
 - (l) Effective dates.
 - (1) In general.
 - (2) Application to pre-effective date acquisitions.
 - (3) Application of regulation project REG-209709-94 to pre-effective date acquisitions.
 - (4) Change in method of accounting.
 - (i) In general.
 - (ii) Application to pre-effective date transactions.
 - (iii) Automatic change procedures.

[T.D. 8867, 65 FR 3826, Jan. 25, 2000]

§ 1.197-1T Certain elections for intangible property (temporary).

- (a) *In general.* This section provides rules for making the two elections